

**TROY GERMAN,
PLAINTIFF, V. BRIAN
ORR, DEFENDANT
WDOK 19-CV-751-F
MOTION EXHIBITS FOR
DEFENDANT ORR'S
MOTION FOR SUMMARY
JUDGMENT**

**EXHIBIT 23 – FRANCIS
SEARCH WARRANT**

FILED

DEC 19 2018

IN THE DISTRICT COURT OF MCINTOSH COUNTY
STATE OF OKLAHOMA

LISA RODEBUSH, Court Clerk
McINTOSH COUNTY
By _____ Deputy

THE STATE OF OKLAHOMA)
COUNTY OF MCINTOSH)

2018-12-17-01
SW NO. _____

AFFIDAVIT FOR SEARCH WARRANT

Lieutenant Robert Francis, Affiant, being first duly sworn, on oath, deposes and states as follows:

I am a State Trooper with the Oklahoma Highway Patrol, and have the authority pursuant to 47 O.S. § 2-117 to conduct criminal investigations.

I have complied with the provisions of 70 O.S. § 3311 and am entitled to such professional standings as a full time, certified law enforcement officer in the State of Oklahoma.

I am a graduate of the 51st Oklahoma Highway Patrol Academy, took my oath of office, and was sworn in by the Chief Justice of the Oklahoma Supreme Court.

I have received numerous hours of continuing education in the field of law enforcement and criminal investigation.

I am a member of the Oklahoma Highway Patrol and supervisor assigned to Troop Z-Investigations.

1. That the following are evidence in a criminal offense:

Any digital media storage device and the information stored within any digital media storage device; any computer and/or computer equipment, including printers, and the digital content stored within any computer equipment; any computer generated word processing document that contains language related to the Oklahoma Highway Patrol promotional process, appointment to the Director of the Oklahoma Department of Emergency Management, Billy D. "Rusty" Rhoades, Michael S. Harrell, Brian Orr, or any other language related to this investigation.; and any driver license, identification card, or other items which show dominion and control.

2. That the above mentioned property is located at the following location:

Affiant has probable cause to believe the following residence described herein: a one story, gray, cinder block house, with white shutters, a metal roof, and two detached buildings, with metal siding, facing the south, and having an address of 1868 Rainbow Bend, Eufaula, Oklahoma 74432, and GPS coordinates of 35.318571, -95.611727, has evidence of a crime contained inside this structure, to include all vehicles located in the detached buildings or on its curtilage, the two metal sided detached storage buildings on its curtilage, and one fifth-wheel travel trailer described as a light colored Citation with one slide out and two axles, which is also located on its curtilage.

3. That the Affiant has probable cause to believe and does believe that the above-mentioned property, to be searched for and seized, is now located upon the above specified locations based upon the following facts:

1. Your Affiant knows that Troop Z is currently conducting a criminal investigation involving the blackmail of an employed member of the Oklahoma Department of Public Safety (DPS) by another employed member of DPS.
2. Troop Z and your Affiant have authority to investigate based upon 47 O.S. § 2-117.A and 47 O.S. § 2-117.B.21.
3. Troy D. German, a white/male, whose date of birth is March 9, 1971, is a member of the Oklahoma Highway Patrol (OHP) Division of DPS, currently holds the rank of Captain and is the Troop Commander at Troop D-McAlester.
4. Billy D. "Rusty" Rhoades is a member of DPS and currently serves as the Commissioner and is the State's Cabinet Secretary of Safety and Security.
5. Your Affiant learned the following from Captain Jason Holt, who is conducting this investigation as the case agent. Holt learned from Rusty Rhoades that on three occasions Troy German initiated contact with him for three in-person meetings. The first meeting occurred at DPS and the last two off campus. The two off-campus meetings occurred on September 11, 2018 at the Charleston's Restaurant located at 5608 Memorial Road, Oklahoma City, Oklahoma, and the other meeting occurred on September 28, 2018 at the Starbucks located at 7305 SE 29th Street, Midwest City, Oklahoma.
6. During those meetings German threatened to expose information concerning Rhoades, Chief of Patrol Michael Harrell, and Captain Brian Orr, which whether true or false, could subject Rhoades and Harrell to ridicule or tend to degrade or disgrace them. German told Rhoades he had "subpoenable" information of improprieties regarding OHP's promotional process that involved Rhoades, Oklahoma Highway Patrol Chief Michael Harrell, and Oklahoma Highway Patrol Captain Brian Orr.

7. Your Affiant further learned from Rusty Rhoades that Troy German communicated information at these in-person meetings to Rhoades, both verbally and through a computer generated word processing document, which attempted to compel Rhoades to use his authority as Commissioner and the Cabinet Secretary to assist German by pledging his support for a political appointment at the state level or assuring a promotion to the command staff rank of Major within the Oklahoma Highway Patrol. The computer generated document was shown to Rhoades during the last meeting and contained information related to securing the promotion to Major. The document was handed back to German before the meeting ended.
8. Your Affiant knows through field experience that computers and printers are used to type, store, and print word processing documents and digital storage devices are used to back-up and/or transport such files. Your Affiant also knows through experience that digital storage devices, computers, and/or printers are often kept at personal residences of individuals.
9. Your Affiant knows through field experience that forensic downloads of computers and digital storage devices can recover files, including word processing documents, whether still saved on such device or deleted. Your Affiant also knows that paper and ink stored within computer printers can be compared to known samples.
10. Through this investigation, your Affiant has learned that Troy German did pass a computer generated, word processing document to Rusty Rhoades. This note was read and subsequently left with German during the meeting at the Starbucks. Finding this document or a copy of this document will prove beneficial to this investigation, as it contained demands made by German.
11. Your Affiant has learned from Captain Jason Holt that Troy German has two residences. One has an address of 1868 Rainbow Bend, Eufaula, Oklahoma 74432 and has been given by German to the Oklahoma Highway Patrol as being his address of residence pursuant to his assignment at Troop D-McAlester. Your Affiant knows that some Highway Patrol troop commanders do maintain two residences. The Highway Patrol has a policy that members assigned to field troops, such as German, must have an address and live within their troop boundaries, or within five miles of their troop boundaries. When German promoted to the rank of Captain, he had a primary residence with his wife in Chandler, Oklahoma, which he still has. However, he also has the aforementioned Eufaula address to be within the boundaries of the residency requirement of Highway Patrol policy.
12. During this investigation, your Affiant learned Administrative Assistant Kim Evans, Troop D, has observed a noticeable reduction in items that were normally located in German's office at Troop D headquarters during approximately the thirty (30) days preceding the date of this affidavit. Evans had the opportunity to make this observation due to the daily duties associated with her role as troop secretary, which cause her to enter the offices of troopers on a regular basis throughout each work day. The Troop D office located in McAlester is German's only assigned

Oklahoma Highway Patrol office. Your Affiant believes whatever items recently removed from this office are stored at a site personal to German, including but not limited to his residence, outbuildings, or vehicles. Your Affiant knows through experience that troop commanders keep both personal and work related items, including computer generated word processing documents and digital media storage devices, in an assigned office.

13. Your Affiant believes any driver license, identification card, or other items which show dominion and control would be beneficial in verifying that German does reside at the residence and may be using computers, printers, and/or digital storage devices, and/or storing notes and/or other papers while there.
14. Because this is listed as Troy German's residential address with the Oklahoma Highway Patrol, and the Oklahoma Highway Patrol has a residence policy requiring field troop commanders to reside within or within five miles of troop boundaries, your Affiant believes German has or does spend time at the residence and any digital media storage device and the information stored within any digital media storage device; any computer and/or computer equipment, including printers, and the digital content stored within any computer equipment; any computer generated word processing document that contains language related to the Oklahoma Highway Patrol promotional process, appointment to the Director of the Oklahoma Department of Emergency Management, Billy D. "Rusty" Rhoades, Michael S. Harrell, Brian Orr, or any other language related to this investigation.; and any driver license, identification card, or other items which show dominion and control, located at this address could be beneficial in the criminal investigation of this case, including the corroboration of witness statements and/or provide direct evidence of the crime of blackmail.

4. That this court should issue a search warrant which may be served during the day time service hours commanding that any duly authorized peace officers:

Shall attach or affix a copy of this warrant to the residence located at 1868 Rainbow Bend, Eufaula, Oklahoma 74432, and search, collect, document, and seize Any digital media storage device and the information stored within any digital media storage device; any computer and/or computer equipment, including printers, and the digital content stored within any computer equipment; any computer generated word processing document that contains language related to the Oklahoma Highway Patrol promotional process, appointment to the Director of the Oklahoma Department of Emergency Management, Billy D. "Rusty" Rhoades, Michael S. Harrell, Brian Orr, or any other language related to this investigation.; and any driver license, identification card, or other items which show dominion and control.

L. L. 5 #176
AFFIANT

Sworn to before me, and subscribed in my presence, this 17 day of

Dec 2018 at 944, A.m.

[Signature]
JUDGE OF THE DISTRICT COURT

FILED

DEC 19 2018

IN THE DISTRICT COURT OF MCINTOSH COUNTY

STATE OF OKLAHOMA

LISA RODEBUSH, Court Clerk
MCINTOSH COUNTY

By _____ Deputy

THE STATE OF OKLAHOMA)
COUNTY OF MCINTOSH)

SW 2018-12-17-01
SW NO. _____

WARRANT

In the name of the State of Oklahoma:

To the Sheriff, State Trooper, or to any other peace officer in said county;

The attached affidavit having been sworn to by the Affiant, Lieutenant Robert Francis, before me this day, based upon the facts stated therein, probable cause having been found, in the name of the State of Oklahoma. I command you to search the place listed below by attaching or affixing a copy of this warrant to the residence at:

LOCATION: 1868 Rainbow Bend, Eufaula, Oklahoma 74432

DESCRIPTION: A one story, gray, cinder block house, with white shutters, a metal roof, and two detached buildings, with metal siding, facing the south, and having an address of 1868 Rainbow Bend, Eufaula, Oklahoma 74432, and GPS coordinates of 35.318571, -95.611727, to include all vehicles located in the detached buildings or on its curtilage, the two metal sided detached storage buildings on its curtilage, and one fifth-wheel travel trailer described as a light colored Citation with one slide out and two axles, which is also located on its curtilage.

TO WIT: Seize any digital media storage device and the information stored within any digital media storage device; any computer and/or computer equipment, including printers, and the digital content stored within any computer equipment; any computer generated word processing document that contains language related to the Oklahoma Highway Patrol promotional process, appointment to the Director of the Oklahoma Department of Emergency Management, Billy D. "Rusty" Rhoades, Michael S. Harrell, Brian Orr, or any other language related to this investigation.; and any driver license, identification card, or other items which show dominion and control.

Sworn to before me, and subscribed in my presence, this 17 day of

Dec 2018 at 944, A. m.



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THE STATE OF OKLAHOMA)
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SW NO. 2018-12-17-01

SEARCH WARRANT RETURN

I, Lieutenant Robert Francis, the trooper who executed the within search warrant to the residence located at 1868 Rainbow Bend, Eufaula, Oklahoma 74432, on December 17, 2018, swear that the following is an actual inventory of all items seized during the execution:

1. No items seized.

LT. R. Francis #176
Lieutenant Robert Francis

Sworn to before me, and subscribed in my presence, this 19 day of

Dec 2018 at 8:30 A. m.

[Signature]
JUDGE OF THE DISTRICT COURT